

the person or (2) restrained the person's movement to a degree associated with a formal arrest. A person in jail is in custody even if the person is being questioned about a crime unrelated to the crime that is the basis of the incarceration. "Custody" is not the same as "seizure" and a member need not give **Miranda** warnings during an investigative stop or while issuing a motorist a ticket unless the member's actions indicate to the motorist that he/she will be arrested. A member's unarticulated intention to arrest the person is irrelevant to determining "custody".

- A member may engage in general on-the-scene questioning at a crime scene or a scene of a motor vehicle collision without giving **Miranda** warnings. **(CALEA 1.2.3)**
- Members gathering information for motor vehicle collision reports while having the motorist in the vehicle need **not** give **Miranda** rights until the member indicates to the motorist that he/she will be arrested. **(CALEA 1.2.3)**
- A suspect who has been handcuffed should always be considered to be "in custody" for **Miranda** purposes. This is true even though he or she may have been told that he or she is not under arrest or that he or she is being handcuffed solely for officer safety or a part of an investigative detention.
- **Miranda** affects only the courtroom admissibility of the suspect's answers to interrogation. If the suspect volunteers information without any questioning or prompting, **Miranda** is not applicable.

Form of Warning and Waiver

- Normally, oral **Miranda** warnings followed by oral waivers of **Miranda** rights are sufficient. A written acknowledgment of **Miranda** warnings and waivers of **Miranda** rights should be obtained in all felony and serious misdemeanor cases. Members must be particularly careful to secure a written **Miranda** waiver in misdemeanor investigations which could later result in felony charges such as, a left of center accident investigation which could lead to a death by motor vehicle or manslaughter charge. In any event, the form and content of the warning and waiver must follow Patrol procedure.

Juvenile **Miranda** rights are to be given to those people under 18 years of age unless they are married, emancipated or are members of the armed forces.

III. MANDATORY POLICIES (CALEA 1.2.3)

Members shall advise a suspect of his/her constitutional rights prior to any custodial interrogation.

Members shall read the **Miranda** card word for word to the suspect. Free-lancing, recitation from memory, or paraphrasing is not approved. Strict